
Appeal Decisions

Hearing Held on 8 August 2017

Site visit made on 8 August 2017

by Mike Fox BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 August 2017

Appeal A - Ref: APP/W0340/W/16 /3165138 212-216 Benham Hill, Thatcham, Berkshire, RG18 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ressance Ltd against the decision of West Berkshire Council.
 - The application Ref 16/00626/OUTMAJ, dated 1 March 2016, was refused by notice dated 17 June 2016.
 - The development proposed is the development of 16 x1 and 2 bedroom apartments and 4x 3 bedroom houses.
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Appeal B - Ref: APP/W0340/W/17/3173632 212-216 Benham Hill, Thatcham, Berkshire, RG18 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ressance Ltd against the decision of West Berkshire Council.
 - The application Ref 16/02456/OUTMAJ, dated 5 September 2016, was refused by notice dated 9 December 2016.
 - The development proposed is the development of 16 x1 and 2 bedroom apartments and 2x 4 bedroom houses.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. All matters of detail except access and layout have been reserved for future approval. In addition to plans showing site location, access and layout, elevation drawings showing the streetscene and the two houses to the rear in Appeal B were submitted. The Design and Access Statement also provides contextual information. This illustrative material gives a likely indication of the character of the proposed development and its relationship to the surrounding area.
4. I note that the Council has withdrawn its final reason for refusal, which was the absence of affordable housing (AH) provision, based primarily on its

consideration of viability advice. The Council indicated, in response to questioning at the Hearing, that in line with national planning policy and the Core Strategy, it would have attached significant weight to the social benefits of AH in its determination of the applications, if this element had been proposed. I agree that AH provision would have been a potential positive benefit which the scheme would not now achieve.

5. The Appellant explained that in the light of two recent appeal decisions¹, he was withdrawing his contention that the local planning authority could not demonstrate a five year housing land supply, so this is no longer an issue to be addressed at this appeal.
6. It was agreed at the Hearing that the elevation drawing referred to as RL17/04 in paragraph 3.28 of the Appellant's Statement is not part of the Appellant's case and neither is it a part of the Appellant's submitted plans.

Main Issues

7. From reading the written evidence and listening to the discussions at the Hearing, and from my observations on and around the appeal site, I consider the main issues to be:
 - (i) The effect of the proposed developments on the character and appearance of the area;
 - (ii) The effect of the proposed developments on the living conditions of neighbouring occupiers;
 - (iii) Whether the proposed developments would provide a sufficient level of amenity space to meet the needs of future occupiers of the developments; and
 - (iv) Whether the proposed developments would provide sufficient on-site parking spaces, with particular reference to highway safety and the free flow of traffic on Benham Hill.

Reasons

Issue 1 - The effect of the proposed developments on the character and appearance of the area

8. The appeal site comprises three low density, detached residential properties with long back gardens, probably dating from the 1930s. They are situated on the south side of the A4 main road (Benham Hill) on its western approach to the town of Thatcham. On the opposite side of the main road, the Henwick Worthy Sports Ground, which is an extensive area of open space, contributes to the open, semi-rural character of the area. The appeal properties form part of a long line of primarily detached houses, extending from the roundabout some 200m to the west of the appeal site to the junction of the A4 with Henwick Lane, some 150m to the east of the site.
9. The Appellant considers that the area to the west of Henwick Lane, including the appeal site, has no set form of development and that the character of the area is made up of varied styles, densities and types of building design. He further maintains that the proposed developments are typical of a number of

¹ Documents 4 and 5 in the list of documents submitted.

tandem developments which have been implemented satisfactorily within the neighbourhood and that within this context, the proposals would not harm the character and appearance of the area.

10. From my understanding of the character and appearance of the area, based on my observations at two site visits (one accompanied) and from studying the maps of the area, I agree with the representative of Thatcham Town Council, who stated at the Hearing that Henwick Lane represents the edge of the truly 'tight knit' urban character of Thatcham. This contrasts with the more suburban/semi-rural grain of development exhibited by the properties to the west along the A4, including the appeal site.
11. The Appellant points out that several of the properties along the A4 to the west of Henwick Lane have been extended and that there are a couple of examples of designs significantly postdating the 1930s as well as two pairs of semi-detached dwellings. The overall effect, however, when looking along the residential frontage to Benham Hill/Bath Road, is of detached houses sitting comfortably within their plots, with a gentle cadence of slightly varying, pitched roof heights and gables, varying gaps between the buildings and verdant frontages.
12. Based on the above considerations, I do not agree that there is no set form of development in and around the appeal site. Rather, I consider that this area exhibits a general unity of a substantial linear form of development along the main road, and an overall harmony of design and scale, which the extensions to the rear of some of the properties have not significantly harmed. This pleasant, settled streetscene, which is largely intact, is particularly apparent from the footpath on the north side of the A4, where it forms a pleasant backdrop from the recreational area to the north.
13. The proposed development at densities of approximately 95 dwellings per ha (dph) in scheme A and 86 dph in scheme B would be at odds with the existing low density urban form of the appeal site and in the neighbouring area. The alien nature of the proposed developments would also be highlighted by the 24m continuous frontage of the block of 16 flats protruding in front of the established building line (common to both schemes). The flats would also be taller than the neighbouring dwellings. The proposals would therefore not respond positively to the local character, but rather they would break up the existing, settled urban grain and appear incongruous in the streetscene.
14. As such, the proposals would be contrary to Core Strategy² policy CS14, which stresses the importance of context and requires development proposals to respect, amongst other things, the density, character and landscape of the surrounding area. This reflects the thrust of national policy, which states in paragraph 56 of *the Framework*³, that the Government attaches great importance to the design of the built environment, and in paragraph 58 [4], which states that development should respond to local character.
15. The Appellant draws my attention to a number of infill/tandem development schemes in the vicinity of the appeal site, in support of the appropriateness of the appeal proposals. I observed a number of these schemes in the accompanied site visit, all of which are located to the east of Henwick Lane,

² West Berkshire Core Strategy; July 2012.

³ DCLG: National Planning Policy Framework (*the Framework*); March 2012.

where I consider the context to be tighter grained and more urban than in the neighbourhood of the appeal site.

16. Whilst I accept that there are some parallels with the Appellant's redevelopment scheme at Henwick View which involved the demolition of what appears to be several good quality houses, it is a prominent corner location which does not in my view appear to interrupt the established and settled rhythm of the streetscene. For these reasons I cannot give much weight to this scheme, nor to any of the other examples provided by the Appellant, which are not necessarily inappropriate in their settings, but which do not provide, in my view, close parallels with the appeal proposals.
17. Taking all the above factors into account, I conclude on the first main issue that both proposals, through introducing an incongruous development, completely out of character with the streetscene, would harm the character and appearance of the area. As such they would be contrary to national policy and the development plan.

Issue 2 - The effect of the proposed developments on the living conditions of neighbouring occupiers

18. The Council and some local residents raise a number of concerns regarding the impact of the proposals on the living conditions of neighbouring occupiers. The first concern relates to the noise and disturbance of vehicles using the proposed access road, which would run along the eastern edge of the proposed developments, together with the associated manoeuvring and parking. I saw examples of such access arrangements in nearby schemes on the accompanied site visit, on developments which occupy sites some distance back from the original frontage development. Firstly, these schemes are not unusual within their urban context and secondly they can be mitigated by the use of acoustic screens, which could be required by condition had I been minded to allow the appeals. I therefore do not give great weight to this consideration as a reason for dismissing the appeal.
19. The second concern relates to the effect of the proposals on the outlook of the two next door properties, at no. 218 Benham Hill to the west and no. 210 to the east. The juxtaposition and height (about 9m) of the proposed block of flats, which would extend behind the current rear building lines of these two residential properties and exceed their height, would be overbearing on the outlook experienced by the next door occupiers. At certain times during the day and particularly in the winter, when the sun would be low in the sky, there would be varying degrees of overshadowing.
20. The four dwellings in scheme A which are proposed at the back of the site would also be in close proximity to the rear gardens of these next door properties; the dwellings in plots 17 and 20 would be located around 1.4m from the boundaries of the rear gardens of no. 218 and 210 Benham Hill respectively. Even if the flanks of these dwellings contained no first floor windows to habitable rooms and appropriate ground level screening, the limited separation distances would mean that they would be overbearing on the outlook of the occupiers of the next door properties, in an area where there is a higher degree of sensitivity due to the lower residential densities and long back gardens.

21. In scheme B, the number of dwellings in the southern part of the site would be reduced from four to two larger, completely detached properties, which would increase the separation distances between these dwellings and the nearest neighbouring back gardens to about 5m. This is still, however, close enough for a dwelling of 6.3m in height to dominate the outlook from the rear gardens of the next door properties. It is not unreasonable to assume that these long back gardens are accompanied by a strong expectation of privacy.
22. The properties on Rydal Close to the rear of the site are situated on lower ground than the appeal site. The separation distances, however, of at least 21m, would be sufficient so as not to unacceptably harm the living conditions of the existing occupiers of these properties.
23. On the basis of the above considerations, I conclude on the second main issue that both proposals would have a harmful effect on the living conditions of the next door occupiers at nos 118 and 110 through an overbearing impact on their outlook, both in relation to the proposed block of flats, and also from the dwellings in the southern part of the site. This would be contrary to paragraph 17 [4] of *the Framework*, which states that planning should always seek to secure a good standard of amenity (living conditions) for all existing and future occupants of land and dwellings.

Issue 3 - Whether the proposed developments would provide a sufficient level of amenity space to meet the needs of future occupiers of the developments.

24. The main parties agree that the proposed amenity space to serve the dwellings at the southern part of the site is sufficient to meet the needs of future occupiers of these dwellings and I see no reason to come to a different view. I consider that the proposed amenity space around the flats, however, is too constricted to be anything other than decorative and falls significantly short of the guidance in the Council's Quality Design SPD, which is for a minimum of 25 sq m per 1 and 2 bedroom units, rounded to 400 sq m for the entire block.
25. Whilst I note the fact that the Henwick Worthy Sports Ground is located on the opposite side of the A4 from the appeal site and is easily accessible via the traffic light controlled junction with Henwick Lane, there is no space within the proposals for facilities such as a washing line or for just sitting out. I therefore consider that the amount of amenity open space provision for the proposed flats is unsatisfactory to meet the needs of the future occupiers of the flats.
26. On the basis of the above considerations, I conclude in relation to the third main issue that both proposals contain insufficient amenity space to meet the needs of future occupiers of the flats. This failure to provide a good standard of amenity would be contrary to paragraph 17 [4] of *the Framework* and Core Strategy policy CS14, which requires development to make a positive contribution to the quality of life in West Berkshire.

Issue 4 - Whether the proposed developments would provide sufficient on-site parking spaces, with particular reference to highway safety and the free flow of traffic on Benham Hill.

27. The car parking provision in both proposals falls short of the requirements set out in policy P1 (parking standards) of the newly adopted site allocations DPD⁴. The Appeal A proposal would require 36 parking spaces to comply with policy

⁴ West Berkshire Housing Site Allocations Development Plan Document; adopted May 2017.

P1, so that its provision of 26 spaces falls short by 10 spaces, which the Council considers would be sufficient to have a detrimental impact on the safety and free flow of traffic on the A4. The Appeal B proposal would require 30 parking spaces, whilst its provision of 27 spaces leaves a shortfall of 3 spaces. The Appellant has submitted a revised layout for scheme B which increases the parking provision by 3 spaces, and the Council's highways officer indicated at the Hearing that the revised layout was acceptable and could be imposed by condition. I have no reason to come to a different view in relation to Appeal B.

28. In defence of scheme A's under-provision of car parking in relation to policy P1, the Appellant argues that although he accepts that this policy now carries full statutory weight, nevertheless he considers that it is based on rigid zoning which ignores the reality of different areas, some of which are more sustainable than others and where in the case of sustainably located sites, a greater degree of flexibility should be applied. He also maintains that the site is in a sustainable location with good access to facilities such as shops and schools, through walking, cycling or by bus, i.e. it is within an area where the policy should be applied flexibly.
29. I am required by law to determine planning appeals in accordance with the development plan – of which policy P1 now forms a part – unless material considerations indicate otherwise⁵. The relevant Core Strategy policy is CS13, which promotes sustainable transport, including improving travel choice and demonstrating good access to key services and facilities. The Appellant contends that there is a discord between DPD policy P1 and Core Strategy policy CS13, in that the former calls for a high number of parking spaces across the district, whereas the latter aims to reduce carbon emissions and encourage sustainable transport.
30. Policy P1 has been adopted following an independent development plan examination, which did not attract any substantive objections, either to the policy in principle or to the zones. I am not aware of any evidence to show that the examination of the DPD and policy P1 showed any conflict between the Core Strategy and the DPD; if there had been, it is difficult to see how the DPD could have been adjudged to be sound by the examining Inspector. Furthermore, I consider that policy P1 accords with paragraph 39 of *the Framework*, which sets out the parameters for setting car parking standards. I also note from the Council's highways evidence that the policy is based on comprehensive evidence and research, including parking surveys, all of which could have been challenged at the DPD examination.
31. A key material consideration in relation to this issue is the A4 main road, which is heavily trafficked, which I observed to be the case at several times of the day both during and outside the rush hours. This would be the first section of highway to come under pressure if shortages of parking spaces in the proposed Appeal A development were to become a reality. I agree with the Council that parked cars on the highway would be potentially hazardous on such a busy main road, and that they could obstruct the cycle track, forcing cyclists to pull out into the path of other road users.

⁵ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

32. Whilst the site is located on a bus route, its frequency is only once every 30 minutes for much of the day with more limited services at weekends. The site is located around 1.5 kilometres from Thatcham town centre and further away from other main retail centres, apart from a small convenience store at the junction of the A4 with Henwick Lane. The distances to the main retail centres significantly exceed the CIHT⁶ walking guidelines of 800m, which limits the sustainability of the site.
33. On the basis of the above considerations, I conclude in relation to the third main issue that, whilst the Appeal B scheme, as amended, would accord with policy P1, the Appeal A scheme would include insufficient car parking spaces to meet the needs of future occupiers, contrary to the requirements of policy P1.

Other considerations

34. The main parties could not agree on whether the appeal site has previously developed land (PDL) status. The definition of PDL in the Glossary in Annex 2 of *the Framework* specifically rules out private residential gardens, which constitute a significant proportion of the appeal site. I also note the Written Ministerial Statement of 2010⁷, which was submitted by the Appellant, which was intended to prevent the practice of 'garden grabbing'. Even if the site were considered to be PDL (and I am not persuaded on the evidence before me that this is the correct interpretation of the definition of PDL in national policy), this would not outweigh the reasons that have led me to dismiss the appeals.

Conclusion

35. I find that both proposals would harm the character and appearance of the established streetscene and the established pattern of development in the area; they would harm the living conditions of the next door properties at nos. 110 and 118 Benham Hill, particularly in terms of loss of outlook; and they would contain insufficient amenity space to meet the needs of future occupiers of the proposed flats. In addition, scheme A would fail to provide sufficient parking spaces to meet the needs of future occupiers. Therefore, both schemes would be contrary to national policy and the development plan. For the reasons given and having regard to all other matters raised, I conclude that the appeals should fail.

Mike Fox

INSPECTOR

⁶ Chartered Institute of Highways and Transport (CIHT) document dated 2000.

⁷ Document 1 in the list of documents submitted.

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

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Bob Turner

West Berkshire Council, Planning
West Berkshire Council, Planning
West Berkshire Council, Highways

INTERESTED PERSONS:

Rita Aldridge
Richard Crumly
Andrew Pike
Maxine Hoskins

Resident
Thatcham Town Council
Resident
Resident

DOCUMENTS

1. Written Ministerial Statement on Previously Developed Land; 9 June 2010.
2. West Berkshire Council: Strategic Housing Land Availability; December 2013.
3. West Berkshire Council: Annual Monitoring Report 2015.
4. Appeal Ref APP/W0340/W/15/3141449 – 495 dwellings at Siege Cross, land north of Bath Road, Thatcham; appeal dismissed by Secretary of State; 27 July 2017.
5. Appeal Ref APP/W0340/W/16/3144193 – 2655 dwellings at Henwick Park, west of Heath Lane and north of Bowling Green Road, Thatcham; appeal dismissed by Secretary of State; 27 July 2017.
6. Photograph showing frontage properties affected by Henwick View scheme.
7. Drawing No. RL 17/05 showing inclusion of three additional parking spaces; 1 September 2016.
8. Officer Report – Demolition of existing facilities and the erection of 47 new dwellings, Pound Lane Depot, Thatcham; 15 April 2016.
9. Record of Attendance at the Hearing.
10. Ressance: Additional Information – Conjoined Appeals 3165138 & 3173632.
11. Additional Drawing RL17_05 Rev A: Site and Location Plan.